

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 23-10063-shl

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5 In the Matter of:

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7 GENESIS GLOBAL HOLDCO, LLC,

8

9 Debtor.

10 - - - - - x

11

12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 June 5, 2023

17 12:26 PM

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21 B E F O R E :

22 HON SEAN H. LANE

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: ALIANNA PERSAUD

1 HEARING re Omnibus Hearing

2

3 HEARING re Doc. #378 Amended Notice Of Agenda

4

5 HEARING re Doc. #311 Motion To Authorize Debtors To (I)

6 Extend The Coverage Period Of Certain Insurance Policies And

7 (II) Granting Related Relief

8

9 HEARING re Doc. #312 Motion To Authorize Genesis Asia

10 Pacific Pte. Ltd. To Pay Certain Employee Severance

11 Obligations

12

13 HEARING re Doc. #329 Motion To Extend Exclusivity Period For

14 Filing A Chapter 11 Plan And Disclosure Statement

15

16 HEARING re Doc. #350 (Presentment With Objections) Notice Of

17 Proposed Amended Consensual Order Extending Mediation

18

19 HEARING re Doc. #377 Letter To Judge Lane Requesting Status

20 Conference Filed On Behalf Of FTX

21

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23

24

25 Transcribed by: Sonya Ledanski Hyde

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17 CLINTON MUELLER, Pro Se Creditor

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19 ALSO PRESENT TELEPHONICALLY:

20 ERIC IAN ASQUITH

21 BENJAMIN S. BELLER

22 ERIC C. DAUCHER

23 ANDREW G. DEITERICH

24 MICHAEL S. ETKIN

25 ADAM J. GOLDBERG

1 KRIS HANSEN
2 AUTUMN D. HIGHSMITH
3 CHRISTIAN T. HODGES
4 OXANA KOZLOV
5 ZIA LIU
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7 JEFFREY S. MARGOLIN
8 MARCY J. MCLAUGHLIN SMITH
9 MICHELE MEISES
10 RICHARD CHESTER MINOTT
11 SEAN A. O'NEAL
12 AMANDA PARRA CRISTE
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16 JEFFREY D. SAFERSTEIN
17 ISAAC SASSON
18 J. CHRISTOPHER SHORE
19 JAMES M. SULLIVAN
20 GORDON SUN
21 WILLIAM MATTHEW UPTEGROVE
22 FRANCISCO VAZQUEZ
23 COLIN WEST
24 PAUL ARONZON
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1 ANDREW BEHLMANN
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3 JESSICA BROOKS
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6 JASON CHA
7 TOM CONHEENEY
8 COURTENAY CULLEN
9 JARED DERMONT
10 MICHAEL DIYANNI
11 JOSHUA IAN DIVACK
12 LEIA DORAN
13 MELISSA DZENIS-GARCIA
14 DAN FORMAN
15 UDAY GORREPATI
16 JASON GOTTLIEB
17 BRANDON HAMMER
18 SANDALL HANDAGAMA
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5 KONRAD LAESSAR
6 CHRISTINE LEE
7 MICHAEL LETO
8 DAVID LOPEZ
9 MICHAEL MAGZAMEN
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13 KYLE MCKUHEN
14 KAYLA MILLIGAN
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21 KATIE ROSS
22 THERESE SCHEUER
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1 PETER J. SPROFERA
2 MARK STANCIL
3 ANDREW SULLIVAN
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5 ANDREW SWIFT
6 NACIF TAOUSSE
7 BRIAN TICHENOR
8 ANDREW TSANG
9 MEGHANA VUNNAMADELA
10 LAUREN WALKER
11 MICHAEL WEINBERG
12 JACK WESTNER
13 PAUL WIRTZ
14 LILY YARBOROUGH
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1 P R O C E E D I N G S

2 THE COURT: All right. Thank you very much. And
3 so with that, we turn to the matter on for 11:00, 90 minutes
4 behind schedule, so let me first thank everybody for their
5 patience in waiting for the matter to be called. I never
6 know exactly how long a calendar is going to go, this hazard
7 of the job, but thank you for your patience.

8 So with that, let me start as we always do with
9 appearances. So first on behalf of the Debtor.

10 MS. VANLARE: Good afternoon, Your Honor. Jane
11 VanLare, Cleary Gottlieb Steen & Hamilton, on behalf of the
12 Debtors. I'm joined today by my colleagues, Mr. Barefoot,
13 Miss Kim, and Mr. O'Neal.

14 THE COURT: All right. I guess I should say now
15 good afternoon. On behalf of the Official Committee?

16 MR. ABELSON: Yes, thank you, Your Honor. Good
17 afternoon. Phil Abelson, White & Case, on behalf of the
18 UCC.

19 THE COURT: All right, good afternoon. On behalf
20 of the Ad Hoc Group?

21 MR. ROSEN: Good afternoon, Your Honor. Brian
22 Rosen, Proskauer Rose, on behalf of the Ad Hoc Group.

23 THE COURT: All right. On behalf of Digital
24 Currency Group?

25 MS. LIOU: Good afternoon, Your Honor. Jessica

1 Liou from Weil, Gotshal & Manges, on behalf of Digital
2 Currency Group.

3 THE COURT: All right. On behalf of FTX?

4 MR. GLUECKSTEIN: Good afternoon, Your Honor.
5 Brian Glueckstein, Sullivan & Cromwell, on behalf of FTX
6 Trading and its affiliated debtors.

7 THE COURT: All right, good afternoon. And there
8 are, as is always the case in a case like this, a lot of
9 appearances that are noted on the Zoom record; a lot of them
10 are for people who are going to listen.

11 So at this point, I'll turn it over to folks who
12 anticipate talking and so, let me get other appearances for
13 those folks.

14 MR. FRELINGHUYSEN: Good afternoon, Your Honor.
15 Anson Frelinghuysen from Hughes Hubbard & Reed for Gemini
16 Trust Company. I'm joined by my colleague, Dustin Smith.

17 THE COURT: All right, good afternoon. Anyone
18 else?

19 MR. GOLDBERG: Good afternoon, Your Honor. Adam
20 Goldberg of Latham & Watkins on behalf of the joint
21 liquidators of Three Arrows Capital.

22 THE COURT: All right, good afternoon. Anyone
23 else?

24 MR. PASQUALE: Good afternoon, Your Honor. This
25 is Ken Pasquale from Paul Hastings for the Official

1 Creditors' Committee in the FTX cases.

2 THE COURT: All right, good afternoon. Anyone
3 else?

4 MR. ZIPES: Your Honor, Greg Zipes with the U.S.
5 Trustee's Office. I'm attempting to fix my camera now.

6 THE COURT: All right, that's fine. As long as we
7 can hear you, Mr. Zipes, that's the most important thing.

8 So let me interject here. The Court did receive a
9 number of emails -- and as we've received them, we've been
10 putting them on the docket -- from various individuals
11 regarding their requests for one of the motions, that is the
12 request for an extension of exclusivity. The usual subject
13 matter is either the case name or that somebody identifies
14 themselves as a creditor in the case. And so, again, I'll
15 put these on the docket as we get them. We've put on a
16 number that we already have gotten; some of them are
17 identified as objection against extension of mediation.

18 So these are folks who I think are creditors in
19 the case, unsecured creditors, and I just want to note from
20 the outset because people may or may not be familiar with
21 this feature of bankruptcy that you do have an unsecured
22 creditors' committee. It's always helpful to have a visual
23 aid. This is the bankruptcy code. The bankruptcy code has
24 lots of provisions, as one would expect of a book this size,
25 one of which provides that in a Chapter 11 case, as

1 appropriate, that there is a committee of unsecured
2 creditors appointed where certain representative creditors
3 serve on a committee of unsecured creditors, that that
4 committee hires counsel, and they represent the interests of
5 unsecured creditors.

6 And so, I mention that just to the extent that the
7 folks who are filing these letters appear to be unsecured
8 creditors. And obviously I've read all the emails that
9 we've received, and I'll continue to read whatever else is
10 submitted to me, but I just wanted to let people know that
11 because it means that by statute, that is the bankruptcy
12 code itself, those folks who are unsecured creditors have
13 representation; they have somebody looking out for them and
14 speaking for them.

15 So with that, let me ask if there's anyone else
16 who anticipates speaking at today's hearing who needs to
17 enter an appearance.

18 MAN 1: Your Honor, (indiscernible), Liberty
19 Unlimited. I am what you consider an indirect creditor.
20 Not to contradict you, but I believe Gemini actually
21 asserted a secured creditor claim, and I know that several
22 of the letters which were written were written by Gemini
23 users like myself.

24 THE COURT: All right. But then you might be a
25 creditor of a creditor?

1 MAN 1: I believe they submitted a master claim,
2 and we were included in that.

3 THE COURT: Well, yeah, so there's actually
4 bankruptcy case law that says a creditor of a creditor is
5 not a creditor in a bankruptcy proceeding. Sorry, it sounds
6 a little bit hard to follow. It sounds like a -- but what
7 the idea is that the creditor is the one who has standing to
8 come into court because they have the right to payment in
9 some capacity and that folks who are owed money from that
10 party don't have bankruptcy standing; that is, the right to
11 come in and say, geez, I will end up on the worse end of it
12 if the party who is a creditor isn't paid, so I just want to
13 make those distinctions clear.

14 I know that there are a lot of interrelationships
15 in the cryptocurrency space, and we'll deal with them as
16 need be over the course of time.

17 MR. FRELINGHUYSEN: Your Honor, Anson
18 Frelinghuysen for Gemini. Would you like me to clarify the
19 master claim and the creditor of creditor position with
20 respect to the earnings now or at a later point?

21 THE COURT: I'd say let's get to it a little bit
22 later as needed because we haven't gotten through
23 appearances yet, so it's always good to get through those
24 first.

25 MR. FRELINGHUYSEN: Right.

1 THE COURT: Thank you. I appreciate the offer and
2 we, in fact, may get there.

3 So let me ask if there's any other party that
4 needs to enter an appearance this morning or this afternoon
5 as the case may be? All right.

6 So I do have a copy of the agenda that was filed,
7 as well as the amended agenda that was filed. And so, it
8 lists the matters to be -- I'm sorry, I'm picking up
9 something. If somebody has an open mic, you probably want
10 to make sure to mute that and nobody wants to have an open
11 mic moment; those are bad, as the internet and other
12 circumstances have shown us. So anybody who is not
13 speaking, make sure to mute your mic, and then when it's
14 time for you to speak, we'll make sure to unmute it and hear
15 from everybody.

16 So the agenda lists a number of things and matters
17 to be heard and they are briefly to use the nomenclature,
18 that is the way they're identified in the agenda: the
19 insurance motion, the severance motion, the exclusivity
20 motion, and the order extending mediation period which has a
21 number of different things, as well as a status conference;
22 that's item no. 5.

23 So with that, I'll turn it over to Debtors'
24 counsel maybe for a status and then to start walking us
25 through the agenda. And as we go through each step in the

1 agenda, I'll make sure to, at some point, throw it open to
2 any party who wishes to be heard. So with that, counsel?

3 MS. VANLARE: Thank you, Your Honor. Jane
4 VanLare, Clear Gottlieb Steen & Hamilton, on behalf of the
5 Debtors.

6 Your Honor, as you correctly noted, we filed an
7 amended objection I believe on Friday reflecting additional
8 filings. We filed a further amended agenda earlier this
9 morning just to make sure that everything -- we believe now
10 everything is included on the amended agenda.

11 We'd like to proceed this afternoon in the order
12 of the agenda, so we'd like to begin with the insurance
13 motion with my colleague, Mr. Barefoot, to present. We
14 would then like to move to the severance motion presented by
15 my colleague, Ms. Kim. And then the exclusivity mediation
16 and the status conference in that order, and I will be
17 addressing those on behalf of the Debtor.

18 THE COURT: All right, that sounds perfectly fine
19 to me. And so, with that, take it away, counsel.

20 MR. BAREFOOT: Thank you, Your Honor. For the
21 record, Luke Barefoot, Cleary Gottlieb Steen & Hamilton, for
22 the Debtors.

23 THE COURT: Mr. Barefoot, I hate to be the bearer
24 of bad news, but your audio sounds like it's breaking up a
25 bit.

1 MR. BAREFOOT: Is this any better?

2 THE COURT: We'll give it a show. If you see my
3 arms wave, that means that it's not working out, but
4 hopefully it will. Just stay close to the microphone.
5 Again, it's hard to pinpoint exactly when things don't work
6 why they don't work, and I don't have any monopoly on wisdom
7 on that subject, so take it away.

8 MR. BAREFOOT: Thank you, Your Honor. Turning to
9 agenda item no. 1 (sound glitch).

10 THE COURT: Sorry, Mr. Barefoot, it's not working.
11 So here's what I would suggest. You can always just log off
12 Zoom and log in on a telephone as long as we can hear you.
13 I confess I'll speak for myself, I'm not a whole lot to look
14 at at these Zoom hearings, so as long as we can hear you,
15 we're good to go.

16 So what we can do perhaps is go to item no. 2 and
17 then we'll come back to you. Thank you. So I think we can
18 go to the severance motion, Ms. Kim.

19 MS. KIM: Good afternoon, Your Honor. Can you
20 hear me well?

21 THE COURT: Can hear you just fine.

22 MS. KIM: Great. Thank you, Your Honor. I'm
23 going to present the motion of Genesis Asia Pacific, or GAP,
24 to pay certain severance obligations for a few of its former
25 employees in excess of the statutory cap for wages and

1 benefits.

2 As explained further in the motion, Your Honor,
3 GAP has filed this in an abundance of caution as the amounts
4 paid to each employee would exceed the priority cap,
5 although the final wages order, we believe, allows the
6 Debtor to continue its severance obligations.

7 We filed a declaration as Exhibit B to the motion,
8 Your Honor, at ECF 312, of Mr. Michael Leto of Alvarez &
9 Marsal, financial advisor to the Debtors, who is present on
10 the Zoom hearing and is available to answer any questions.
11 So we would ask otherwise that the declaration to be
12 admitted.

13 THE COURT: All right. Any objection to admitting
14 the Declaration of Michael Leto at Docket 312 in support of
15 this motion? All right. Hearing no opposition, I'm happy
16 to receive it. Proceed.

17 (Declaration of Michael Leto Entered into
18 Evidence)

19 MS. KIM: Thank you, Your Honor. GAP is
20 requesting authority to pay the prepetition severance
21 obligations for four former GAP employees who were
22 terminated prepetition with a total amount of approximately
23 29,000 Singapore dollars, which is the equivalent of
24 approximately \$21,850 United States dollars, in excess of
25 the cap. None of these employees are insiders under the

1 bankruptcy code in pertinent part.

2 GAP believes that there's cause to pay these
3 amounts, including under the doctrine of necessity. And the
4 payment of the severance obligations will help to preserve
5 the Debtors' estates and prevent GAP from expending further
6 resources related to these amounts and increasing from
7 employees. In turn, we believe that it'll also help
8 increase employee morale.

9 And explained further in the motion, Your Honor,
10 we'd like to note that although GAP had intended to pay
11 these amounts fully prepetition, they were not paid due a
12 bank error and they're very relatively minor compared to any
13 amounts that we have previously requested authority for
14 under the wages and benefits motion.

15 We received no formal objections to the motion,
16 Your Honor, including from the unsecured creditors'
17 committee. We also filed a revised proposed order at ECF
18 No. 345, and that reflects comments from the United States
19 Trustee's Office. The changes include listing the
20 approximate amount to be paid and that each employee agrees
21 to release GAP from any claims related to the severance
22 obligation.

23 Unless Your Honor has any questions, we would ask
24 the Court to enter the order.

25 THE COURT: All right. Thank you very much.

1 Anything from the unsecured creditors' committee?

2 MR. ABELSON: Nothing, Your Honor.

3 THE COURT: All right, thank you. And I know the
4 U.S. Trustee's Office often takes a keen interest in these
5 such things. Anything from the United States Trustee's
6 Office?

7 MR. ZIPES: Your Honor, Greg Zipes with the U.S.
8 Trustee's Office. With those changes to the proposed order,
9 my office has no objections.

10 THE COURT: All right. Thank you very much. Any
11 other party that might wish to be heard in connection with
12 this motion? All right. Hearing nothing, I'm happy to
13 approve the motion for all the reasons that have been
14 described on the record this morning and are set forth in
15 the motion itself and to enter the revised proposed order
16 that's at Docket 345. I find that the motion is appropriate
17 under applicable law, including Section 363.

18 So with that, I think we can go back to the
19 insurance motion at item no. 1 and Mr. Barefoot.

20 MR. BAREFOOT: Good morning, Your Honor. Luke
21 Barefoot from Cleary Gottlieb. Can you hear me okay now?

22 THE COURT: I can hear you clear as a bell. Thank
23 you very much and I appreciate your flexibility.

24 MR. BAREFOOT: Of course, Your Honor, and I
25 apologize. Turning to agenda item --

1 THE COURT: No, no, it happens to all of us. A
2 day without these problems is welcome but, you know, we
3 can't always can't what we want.

4 MR. BAREFOOT: Understood, Your Honor. Turning to
5 agenda item no. 1, that's the Debtors' motion for
6 authorization to extend the coverage period under their
7 insurance policies by six months; that was filed at docket
8 item no. 311.

9 At the outset, just from an evidentiary
10 perspective, I'd like to move into evidence the Declaration
11 of Arianna Pretto-Sakmann, which was attached to the motion
12 as Exhibit B, as her direct testimony in support of the
13 motion. Miss Pretto-Sakmann is on the line should the Court
14 have any questions, but the motion is proceeding on an
15 unopposed basis.

16 THE COURT: All right. Anybody wish to be heard
17 in connection with receiving this declaration into evidence?
18 All right. Hearing no response, I am happy to receive it.
19 Thank you very much.

20 (Declaration of Arianna Pretto-Sakmann Entered
21 into Evidence)

22 MR. BAREFOOT: Thank you, Your Honor, and I'll be
23 brief on the merits. The Court may recall from the lift
24 stay motion brought by one of the Debtors' former directors
25 back in April that the Debtors do have a series of both

1 primary and excess directors and officers insurance
2 policies. Those are all claims made to policies and the
3 current claims period is set to expire in late June.

4 No amounts have currently been paid out against
5 the principal amounts of the policies, but based on
6 discussions with their insurance broker, the Debtors believe
7 that it would be very difficult to obtain new policies at
8 this juncture in the case without clarity on a post-
9 emergence capital structure, as well as the scope of
10 releases that will ultimately be included in a plan of
11 reorganization.

12 The Debtors have obtained a quote for
13 approximately \$617,000 for a six-month extension of the
14 policies -- of the claims periods under the policies. And
15 while the Debtors believe this should be viewed as ordinary
16 course, they anticipate that the insurers will insist on an
17 order to issue the extension that we're contemplating.

18 To the extent required, Your Honor, I believe that
19 the motion and Miss Pretto-Sakmann's Declaration show that
20 this is a valid exercise of the Debtors' business judgment,
21 and unless the Court has any questions, would ask that the
22 order be entered.

23 THE COURT: All right. Thank you very much. In
24 the interest of efficiency, let me just ask if there's any
25 party that wishes to be heard in connection with this

1 motion. All right. Hearing no response, I'm happy to
2 approve the motion as the valid exercise of the Debtors'
3 business judgment for all the reasons explained this morning
4 on the record and as set forth in the hearing -- I'm sorry
5 -- in the pleadings that were submitted and find it complies
6 with all applicable law, so that motion is granted.

7 And so we can move on to item agenda no. 3, the
8 exclusivity motion.

9 MS. VANLARE: Thank you, Your Honor. Jane VanLare
10 again, Cleary Gottlieb Steen & Hamilton, on behalf of the
11 Debtors. Next on the agenda is the Debtors' motion to
12 extend exclusivity; that was filed at docket no. 329.

13 We have sought to extend our exclusive period to
14 file and solicit a plan, and we believe that an extension of
15 our exclusive periods is warranted. Over the past four and
16 a half months, we have made tremendous progress in these
17 cases, including among other things, obtaining first and
18 second day release on a variety of different motions to
19 ensure the preservation of estate assets and preserve
20 operations to the extent applicable.

21 We filed a plan of reorganization to provide a
22 path to confirmation, even if the Debtors are not able to
23 reach a global resolution with their stakeholders. We
24 facilitated and participated in extensive discussions among
25 our key stakeholders in these cases on (sound glitch)

1 consensual restructuring, including participating in a
2 court-ordered mediation process which is ongoing. We have
3 shared and facilitated access to a wide range of diligence
4 information, and we've provided input on restructuring
5 proposals that have been exchanged.

6 We've worked extensively and collaboratively with
7 the unsecured creditors' committee to obtain orders to
8 redact certain identifying information regarding our
9 creditor body, and we've assisted the special committee.
10 Not to be confused with the unsecured creditors' committee,
11 we've assisted the special committee with an investigation
12 into certain prepetition transactions involving the company,
13 the DCG entities, and others.

14 We've also worked cooperatively with the Office of
15 the U.S. Trustee. We've obtained retention of numerous
16 estate professionals and ordinary course professionals,
17 again to ensure that the Debtors' operations are progressing
18 and proceeding. And we have filed a schedules of assets and
19 liabilities and statements of financial affairs. We've set
20 a bar date and we've commenced our claims reconciliation
21 process.

22 Finally, we've launched and are in the process of
23 conducting a robust sale process for the Debtors' assets in
24 conjunction with DCG, which is a non-debtor affiliate, and
25 we think the sale process will maximize value for the

1 Debtors' estates. Our focus throughout these proceedings
2 has been to preserve assets, to minimize litigation, and
3 conclude these cases as quickly as possible so that we can
4 begin distributions to our creditors. We've worked
5 collaboratively with various parties in interest, including
6 the unsecured creditors' committee and the ad hoc group in
7 order to achieve these objectives.

8 We had originally asked for, in our motion, to
9 extend exclusivity by 100 days. After further discussions
10 with counsel to the UCC and the ad hoc group, we've agreed
11 to reduce that request to 75 days. That would extend the
12 exclusive period to file a plan through and including August
13 2nd, and the exclusive solicitation period through and
14 including October 1st.

15 We have filed an amended order to reflect this
16 change, along with some additional language requested by the
17 unsecured creditors' committee. Your Honor, I'm not sure if
18 you've had a chance to look at the amended order as we filed
19 it late this morning in advance of the hearing, and so I'm
20 happy to walk you through or read the additional language if
21 that would be helpful.

22 THE COURT: That's would be great, and I do have
23 the committee's statement and reservation of rights that, in
24 fact, proposes some additional language, so I have that in
25 front of me. So, yeah, it would be very helpful if you

1 could walk me through the changes to the proposed order.

2 MS. VANLARE: Happy to do that, Your Honor. So as
3 I mentioned, we've modified the dates from August 22nd to
4 August 2nd for the exclusive period to file a plan, and the
5 solicitation -- the exclusive solicitation period from
6 October 26th to October 1st.

7 And then in Paragraph -- actually, I think our
8 numbering is off here, which we'll fix -- it's really
9 Paragraph 2 of the order should say that the exclusive
10 period to file a plan is extended through August 2nd, and
11 this is the new language, "Provided that if the Debtors are
12 no longer working cooperatively with the Official Committee
13 of Unsecured Creditors, defined the Committee, to pursue a
14 joint Chapter 11 plan with the Committee. As determined by
15 the Committee in its discretion, the Committee may file with
16 the Court and serve on parties in interest a motion to
17 terminate such extended exclusive filing period on seven
18 days' notice."

19 And then the only other change is, again, the
20 solicitation period deadline, which was changed from October
21 26th to October 1st.

22 As you noted and as our agenda reflects, both the
23 unsecured creditors' committee and the ad hoc group filed
24 statements in response. We filed a responsive statement in
25 response to the statements before the deadline agreed upon

1 with Your Honor's chambers. We don't believe we received
2 any other objections. Your Honor had noted, which we have
3 as well, a number of Gemini lenders and other creditors who
4 filed letters. We believe those are objections to the
5 mediation order and certainly plan to address those later on
6 in the agenda, but we don't believe we received objections
7 to the exclusivity motion.

8 With that, Your Honor, we would ask that you enter
9 the motion.

10 THE COURT: All right. Thank you very much. So
11 let me hear from the Committee of Unsecured Creditors.

12 MR. ABELSON: Thank you, Your Honor. Again for
13 the record, Phil Abelson, White & Case, on behalf of the
14 committee.

15 Your Honor, I don't have much to add. Miss
16 VanLare covered the points that we wanted to highlight,
17 which is the reduction from 100 days to 75 and then the
18 additional language added to the order that makes it clear
19 that if something were to change in the case and we're no
20 longer working cooperatively that we do have an opportunity
21 to come in on an expedited basis to Your Honor and we'll
22 discuss it at that time. But we're optimistic, frankly,
23 that we're not going to get there and we're working with the
24 Debtors cooperatively, so we support extension of
25 exclusivity for the 75 days subject to that language in the

1 order.

2 THE COURT: All right. Thank you very much. And
3 I did also see a statement and reservation of rights by the
4 ad hoc group, so let me hear from them.

5 MR. ROSEN: Thank you very much, Your Honor.
6 Again for the record, Brian Rosen, Proskauer Rose, on behalf
7 of the ad hoc group.

8 Yes, we are in favor of the extension of
9 exclusivity and for the 75-day period. However, I would
10 like to note that when we did communicate/correspond with
11 Ms. VanLare and Mr. O'Neal with respect to the agreement to
12 extend. There was an agreement that we would reserve our
13 rights with respect to the termination if, in fact, we
14 thought it was appropriate to do so. As I said, there was
15 an agreement on that.

16 So the language that Ms. VanLare and Mr. Abelson
17 have now suggested be put in there seems to be a little bit
18 limiting, certainly with respect to only the committee
19 seeking the right to terminate exclusivity, and we would
20 merely suggest that all parties reserve their rights to
21 terminate for cause or for any other reason the exclusive
22 periods in accordance with the provisions of the bankruptcy
23 code, Your Honor, rather than just limiting it to the UCC
24 because that was not our agreement that we had reached.

25 THE COURT: All right. Miss VanLare, let me hear

1 from you on that.

2 MS. VANLARE: Your Honor, we would be fine adding
3 the ad hoc group to that language and can submit a revised
4 order.

5 MR. FRELINGHUYSEN: Your Honor, Miss VanLare, if
6 you could add Gemini to that group, we would appreciate that
7 as well.

8 MS. VANLARE: We can do that. We can do that and
9 incorporate those changes.

10 THE COURT: All right.

11 MR. ROSEN: With that agreement, Your Honor, we
12 have no objection to the entry of the order.

13 THE COURT: All right. So those were the two
14 responses that were filed on the docket to this motion, and
15 so, I didn't see any other -- I didn't see any oppositions
16 and I did see any other reservation of rights or statements.

17 And so, with that, is there any other party that
18 wishes to be heard in connection with this motion? All
19 right. Hearing no further responses, I am happy to grant
20 the motion to extend the exclusive periods as has been
21 modified on the record and the standard is well set forth in
22 the papers, Section 1121(d).

23 And I think the totality of the circumstances and
24 all the factors that are identified in Paragraph 12 of the
25 motion, which I will not recite here in interest of brevity

1 but that you all are quite familiar with, and I find those
2 are satisfied here, given that, among other things, the size
3 and complexity of the case and obviously the good faith
4 progress in renegotiation, which is reflected in the
5 statements that have been made on the record.

6 My only other comment then is just so that no one
7 has to worry is sort of at the end of the additional
8 language to just put something that says, "with a hearing to
9 be scheduled subject to the Court's availability," just so
10 no one feels like there's some issue that might crop up.
11 I've actually added that language to a number of orders over
12 almost 13 years now. It's actually never mattered, but I
13 think it helps to lower peoples' blood pressure just in case
14 there's a scheduling conflict or concern of any sort. But I
15 will, of course, make myself available if the need arises
16 and, hopefully again, we don't get there, so this motion is
17 granted.

18 And so we can move on to item no. 4, which is the
19 proposed amended consensual order extending mediation, and
20 I'll turn that over to Debtors in the first instance. I do
21 note that the amended agenda does list now all of what's
22 been put on the docket in terms of objections by various
23 folks who were Gemini lenders, as well as the other
24 objections that were received.

25 So Miss VanLare.

1 MS. VANLARE: Thank you, Your Honor. Jane VanLare
2 on behalf of the Debtors.

3 So, Your Honor, as you probably recall, on May
4 1st, you entered an order appointing a mediator in these
5 cases. We subsequently filed a consensual order to extend
6 the mediation to and include June 16th, and that's what's on
7 the agenda this afternoon.

8 We, first of all, would like to note that under
9 Paragraph 1 of the original mediation order, we're not
10 required to seek Court approval as the order provides for
11 extension upon agreement of the parties, which we do have
12 here, but we wanted to do it in the spirit of transparency
13 of the process.

14 I think what I'd like to do is --

15 THE COURT: Let me just jump in here and say I
16 agree with you. I think that's exactly the way to go so
17 that people know where we are and where things are going, so
18 I appreciate you proceeding in that fashion.

19 MS. VANLARE: Thank you, Your Honor. So what I'd
20 like to do is address some of the points made in the various
21 objections and letters that have been filed on the docket.

22 First, with respect to the Gemini lenders, many of
23 whom filed letters on the docket, we think the key point
24 made by these objections is that these creditors would like
25 us to conclude these proceedings and emerge from Chapter 11

1 as quickly as possible. We understand and we, frankly,
2 share these goals. We've been working tirelessly to achieve
3 those goals in collaboration with counsel to our major
4 stakeholders, including the Official Committee of Unsecured
5 Creditors and others, but we do not think that shortening
6 the mediation process will make these proceedings go any
7 faster. In fact, we think that the goal of pursuing
8 mediation in these cases has been to bring various parties
9 to the table to achieve a consensual resolution that would
10 minimize litigation and secure a prompt exit from Chapter
11 11.

12 Therefore, Your Honor, we do urge you to overrule
13 these objections. Again, we very much hear our creditor
14 body and the fact that I think everyone would like a
15 resolution to these proceedings as quickly as possible, and
16 we do believe that extending the mediation actually promotes
17 that objective.

18 Next, I'd like to address objections that were
19 filed by the FTX debtors and the counsel to former
20 representatives of Three Arrows Capital liquidators. These
21 parties filed objections to extending the mediation because
22 they have not participated in it to date.

23 First, I'll note that the parties' desire to
24 participate in the mediation is at odds, frankly, with their
25 objections to extend the mediation. However, putting that

1 to the side, the focus of the current mediation to date has
2 been on resolving contributions of DCG to the plan,
3 including the repayment of over 1.7 billion owed to the
4 Debtors, plus additional claims. It has not involved
5 mediation of a liquidated claims against the Debtors or any
6 other issues. We are far along in our plan discussions. We
7 filed our plan months ago and are working to file an amended
8 plan and disclosure statement shortly.

9 Neither FTX nor Three Arrows Capital has asked to
10 participate in the DCG mediation until now which, frankly
11 again, makes sense to us. And, indeed, it's the Debtors'
12 business judgment to structure the mediation in the best way
13 possible to facilitate an efficient and fair resolution to
14 these cases and we think we've done that.

15 So with that, Your Honor, we would ask you to
16 overrule these objections to the order extending the
17 mediation to June 16th.

18 THE COURT: All right. Thank you very much. And
19 so, let me hear from the committee.

20 MR. ABELSON: Thank you, Your Honor. Again, Phil
21 Abelson, White & Case, on behalf of the committee.

22 Your Honor, I'll be brief. Basically, this is
23 just a -- it's not even really a request. As noted, we
24 didn't need to seek it, but it was just to put everybody on
25 notice that the mediation would continue. All that means is

1 that negotiations are continuing, and we think it makes
2 sense to do that under the umbrella of the mediation order.
3 And, you know, we share Ms. VanLare and the Debtors' concern
4 about the length of the cases and the need to move on, which
5 is exactly why we have decided to figure out what a world
6 looks like if we don't have an agreement with -- a global
7 agreement with DCG, which is why we've started to work
8 through the plan process for that exact circumstance.

9 And so, the mediation is important to allow for
10 the discussions to happen. We still think that's the best
11 way to try to move these cases forward and to reach a global
12 deal with DCG, but if we can't, we're figuring out how to
13 move on and trying to move this as quickly as we can.

14 THE COURT: All right. And I know there was
15 earlier an offer to address the Gemini lender objections and
16 make a comment about the understanding of the relationship
17 and I'd be happy to hear that comment now.

18 MR. FRELINGHUYSEN: Thank you, Your Honor. Anson
19 Frelinghuysen, Hughes Hubbard & Reed, on behalf of Gemini
20 Trust Company, agent for our Earn users.

21 Your Honor, the Court directed that Gemini file a
22 master proof of claim on behalf of the 232,000 Earn users
23 and we did file that claim last week, a week ago Monday.
24 This was done to facilitate the administration of the case
25 by avoiding the need for these hundreds of thousands of Earn

1 users to file individual claims. The Earn users or the Earn
2 lenders are direct lenders to the Debtors and each of them
3 is a direct creditor of the Debtors; it's not a creditor of
4 a creditor situation.

5 The master claim was filed and secured in part,
6 but there also will be a significant unsecured deficiency
7 claim that remains after setoff. And also, I just want to
8 clarify a record, my statements previously to the Court
9 regarding the number of Earn users. The number is actually
10 232,824, which is something that we came to in the process
11 of filing the Gemini master claim and they're collectively
12 owed 1.122 billion.

13 Your Honor, if we also could speak to the
14 extension of the mediation a little bit. Do you have
15 further questions on the master claim?

16 THE COURT: No, no, that's fine. I had suspected
17 that to be the case, but I appreciate the clarification, so
18 please proceed.

19 MR. FRELINGHUYSEN: Hopefully, that is clear to
20 the Earn users as well, and they can continue to call me as
21 well.

22 The Gemini position remains, as it has for the
23 past six months, is that Genesis has to do all it can to
24 return the Gemini Earn users assets as promptly as possible.
25 Gemini has supported the Debtors in each of the approaches

1 it has tried to reach this goal. When there was an all-
2 party deal on the table at the beginning of the year, Gemini
3 actively engaged and agreed on those terms. When the Debtor
4 engaged with its important work with the UCC, Gemini
5 supported that process to the extent the greater value could
6 be extracted and achieved.

7 When the Debtors proposed mediation, Gemini
8 supported that as well and actively engaged in the initial
9 two-day mediation and has been actively involved with all
10 parties since then.

11 The Debtors latest push to get the amended plan on
12 file this week, Gemini supports that as well. Genesis has
13 our comments, and we will do all we can to get that and to
14 help the Debtors get that filed this week. Whether the
15 mediation period is extended, I think it's already been
16 stated, does not slow that down; that's just kind of a side
17 part of getting the whole deal on the table, and I think the
18 overriding immediate goal is moving forward.

19 What we have are 232,000 people, actual people,
20 with real investments and savings impacted here. Gemini has
21 been the intermediary of their frustrations for months.
22 Last week, a lot of those frustrations bubbled over into the
23 objections that the Court saw, and we've been talking about.
24 I can assure you that Gemini sees multiples of that nearly
25 every day.

1 Gemini urges all the parties, as we know, to keep
2 in mind that each delay has actual people separated from
3 their investments and that while Gemini actively supports
4 the Debtors' current efforts, Gemini's patience, just like
5 the patience of its Earn users, is wearing thin. Without
6 real progress in coming weeks, Gemini is ready to exercise
7 available rights to advance alternative methods to
8 distribute property to Gemini Earn users as promptly as
9 possible in an effort to minimize any ongoing harm.

10 The bottom line is that we remain committed to the
11 process and committed to the plan or the mediation,
12 whichever moves things forward as fast as possible. We hope
13 all the parties remain focused on getting recoveries out to
14 these actual users as promptly as possible and we remain
15 available to any discussion any time on any of that.

16 THE COURT: All right. Thank you very much. With
17 that, I thought I would hear from the parties who did file
18 an objection. So I've heard certainly just now from Gemini
19 Trust Company. I think that reflects the views, generally
20 speaking, of the individual Gemini lenders who submitted
21 their own individual emails, which are substantially similar
22 in content if you take a look at the list of them.

23 So let me turn now to FTX Trading Ltd.

24 MR. GLUECKSTEIN: Thank you. Good afternoon, Your
25 Honor. Again for the record, Brian Glueckstein of Sullivan

1 & Cromwell, for FTX Trading and its affiliated debtors in
2 their Chapter 11 cases pending in Delaware.

3 Your Honor, the FTX debtors, and we appreciate
4 Your Honor hearing from us today; it's our first appearance
5 in the case. While we have filed some papers, this is the
6 first time appearing before Your Honor on behalf of FTX.

7 The FTX debtors have never sought to interfere in
8 any way with Genesis Chapter 11 cases. But our priority,
9 Your Honor, is certainly our need to ensure that our rights
10 are protected in any plan process. The FTX debtors have
11 been content up to this point to let the Debtors propose
12 mediation parties, negotiate a plan, and then we intended to
13 evaluate that proposed plan and its terms once filed with
14 the Court.

15 However, in the estimation motion that was filed
16 by the Genesis debtors late Thursday --

17 THE COURT: Well, let me -- so I realize the
18 estimation question is not technically on for today. I
19 realize it's, from your view, relevant, but it is a separate
20 request for relief that I'm not -- it's not teed up for
21 today. I'm not ruling on it today, and so, you obviously
22 reserve all your rights as to that. I believe it's on for
23 June 15th, so I don't want to do a deep dive in that because
24 obviously any comments -- the more you say about it, the
25 more people will feel the need to respond, and we'll end up

1 sort of repeating I think all of those issues when we come
2 together on the motion.

3 So I do have -- you know, so I'll give you a brief
4 opportunity to talk about it, but only a brief one.

5 MR. GLUECKSTEIN: And I'm only intending briefly,
6 Your Honor. I'm not intending to get into the merits, of
7 course, at all and we'll address the timing of that motion
8 with respect to the next agenda item, the status conference.

9 I simply was intending to note, Your Honor, that
10 the premise of that motion talks about the need to estimate
11 claims for purposes of the plan process, and that motion, of
12 course, seeks to estimate our claims to zero.

13 This is the first time it's become evident to us
14 that, despite what Miss VanLare seems to have suggested for
15 the first time to use this morning of the limited nature of
16 the mediation, it certainly appears to us in the filings
17 prior to this morning's hearing that the mediation and the
18 motions filed in support of it now are seeking to address
19 issues that are premised on the treatment of FTX's claims.

20 If it is, in fact, true that the estimation motion
21 as filed in furtherance of the mediation and plan process
22 that's proceeding, it is our position, Your Honor, that the
23 statement that the Debtors are working expeditiously with
24 all parties to formulate a plan omits their biggest
25 creditor. While we have apparently a dispute about our

1 claim --

2 THE COURT: So are you asking to be -- there's
3 sort of a couple of ways I could take your comments, but one
4 of which is that you want to be at the table. Am I
5 understanding that correctly?

6 MR. GLUECKSTEIN: We certainly think, Your Honor,
7 that at this point in light of the filing last week that if
8 the path that this mediation appears to be on, which of
9 course, is confidential and we could be off base as to that
10 -- there isn't a public discussion of the scope of the
11 mediation -- we do believe we should be at the table as the
12 largest creditor of this case, in our view, with respect to
13 the plan formation process if the plan is going to be
14 premised on the treatment of our claims in some way.

15 THE COURT: So I would anticipate, and somebody
16 could correct me if I'm wrong, that the motion certainly was
17 intended to start conversations between the estate and FTX;
18 these motions usually are. And again, we'll get to it in
19 the fullness of time.

20 So anything else, Mr. Glueckstein, in terms of
21 your objection?

22 MR. GLUECKSTEIN: Not with respect to the
23 mediation, Your Honor.

24 THE COURT: All right. Thank you very much. And
25 let me hear from the foreign representatives of Three Arrows

1 Capital, Ltd.

2 MR. GOLDBERG: Thank you, Your Honor. Adam
3 Goldberg of Latham & Watkins on behalf of the joint
4 liquidators of Three Arrows Capital as foreign
5 representatives.

6 First let me add, Your Honor, we respectfully
7 request leave of the Court to appear today after filing
8 objection over the weekend in light of the expedited nature
9 of the request and the response that it has generated today.

10 THE COURT: That's fine, yes, happy to have you
11 here.

12 MR. GOLDBERG: Thank you, Your Honor. Three
13 Arrows Capital is in a liquidation proceeding in the British
14 Virgin Islands. Russell Crumpler and Christopher Farmer
15 were appointed as joint liquidators on June 27th, 2022, and
16 that proceeding was recognized as a foreign main proceeding
17 by a court in this district, Judge Glenn, on June 28th,
18 2022; the case number for that is 22-10920.

19 I'd like to just make a brief remark about the
20 context of the Three Arrows case before getting into the
21 issues before the Court today, which is that the Three
22 Arrows liquidation has been made very challenging by the
23 absence of proper records and the flight of the two founders
24 that operated the business. They are currently in -- the
25 founders are currently in violation of orders from the BBI,

1 Singapore, and indeed this Court before Judge Glenn to turn
2 over documents and be available for examination.

3 The joint liquidators have been forced to engage
4 in extensive efforts to obtain record, marshal assets, and
5 effectively rebuild the records of the business. Prior to
6 Three Arrows being in liquidation, it had engaged in
7 extensive transactions with the Debtors, essentially
8 financing transactions denominated in cryptocurrency among
9 other things. By the time Three Arrows Capital was put into
10 liquidation, those transactions were will into the billions
11 of dollars.

12 And I should note as well that Three Arrows
13 Capital was also engaged in other transactions with some of
14 the Debtors' affiliates, including --

15 THE COURT: Well, I understand that you have an
16 extensive claim in your view and also an extensive
17 involvement with the Debtors. I guess just to cut a little
18 more to the heart of it, which is your objection to the
19 proposed order extending mediation in terms of how this case
20 is going to work.

21 MR. GOLDBERG: Yes, Your Honor. Essentially, I
22 think, as with FTX, we view ourselves as a key party in this
23 case. Other parties may decide to dispute our claims, but
24 we should be at the table as well, Your Honor.

25 THE COURT: All right. Thank you very much,

1 counsel.

2 MR. GOLDBERG: Thank you.

3 THE COURT: So I do have a stack in front of me of
4 the letters that were submitted, which are the only other
5 objections to the motion, and they are my only other -- it's
6 a bit of an understatement in the sense that there are quite
7 a few of them, and so, they've been filed at various parts
8 in the docket that are listed now on the amended agenda, the
9 most recent amended agenda.

10 And I think in the interest of full transparency
11 and just so people understand that I'm reading these,
12 there's a discussion in them about a number of different
13 things. One is about folks needing access to the funds that
14 they've invested, the importance of that, which I think has
15 been echoed by other parties today. There is also some
16 discussion with various folks about good faith in various
17 different ways that's expressed, and there's also obviously
18 a lot of discussion about delay. There's some, in some
19 instances, a mention of multiple delays in the context of
20 this case, and I wasn't sure if people were referring to the
21 extension of exclusivity or the mediation motion, neither
22 one of which have been up for extension until today.

23 So I just -- I wanted to make sure people
24 understood that I have these, I've read these, and I will
25 continue to read what's been submitted. So, for example,

1 someone says Genesis has already been granted multiple
2 extensions, so there may be a certain amount of sort of
3 misunderstanding about how the bankruptcy process works,
4 which is understandable that folks are not experts in
5 bankruptcy; that's a very uncommon thing to be unless you've
6 spent some time here in bankruptcy court.

7 And so, to just level set a bit, there's a couple
8 of different kinds of extensions that we're talking about
9 here today, and I just want to provide a little bit of
10 information to the extent it's helpful for folks.
11 Obviously, a Chapter 11 is a debtor who is in possession,
12 that is a debtor who is operating a business who comes to
13 court and so, it's real litigation in real time. There are
14 lots of deadlines and lots of requirements as a Chapter 11
15 debtor, and that's why you'll see folks -- the debtor will
16 come in here and ask for permission to do lots of things;
17 we've already dealt with a couple of those early on in the
18 motions that weren't contested here today.

19 But one of the things that is related to the
20 mediation motion -- it's not the same, it's different, but
21 in terms of requesting additional time that's already come
22 in is the extension of exclusivity, and that's the amount of
23 time the debtor as a party that can propose a plan. And
24 that's related to the mediation in the sense that the debtor
25 is trying to figure out the economic terms of what a plan

1 might look like, so there's lots of different kinds of
2 conversations that have to happen in connection with that.
3 And there's a statute for extension of exclusivity; it's
4 referenced in the papers and that I referenced in granting
5 the extension, and that was the first extension of
6 exclusivity in this case, it's important to note.

7 And Chapter 11 cases are large and complicated. I
8 don't think you need to look much further than the first day
9 declaration in this case, that is the declaration provided
10 by the Debtors when they filed the case, talking about the
11 crypto winter and the difficulties in the crypto industry,
12 to understand how complicated and complex these cases are.

13 And so, segueing from that to this motion, the
14 mediation motion, the idea behind mediation, it's often used
15 in bankruptcy to give people essentially a structure around
16 negotiations and to give them the aid of somebody who's
17 outside the parties to provide some insight and wisdom in
18 terms of the parties trying to reach deals in their
19 negotiations. And it is often a concern that's raised by
20 parties who are not in the room where it happens, to quote
21 Hamilton, of the mediation that they're not in the room,
22 which is, of course, a source of great anxiety.

23 The challenge always, of course, is that you can't
24 negotiate everything all at once. Complicated Chapter 11
25 cases often are a series of negotiations, some of which sort

1 of happen naturally first, second, third. Sometimes people
2 need to know what the economic terms that might be out there
3 in order to start thinking about the claims pool and what
4 people are entitled to; you can't start paying people until
5 you know what they're entitled to under law, and the minute
6 you pay one person, then somebody else who complains saying
7 what about me, so that's what a plan of reorganization is
8 for.

9 So I mention all this just to sort of level set
10 the bankruptcy as a process for litigating in real time the
11 reorganization of a company. In a case like this, it's very
12 complicated; it means that it does take time and it has a
13 lot of moving pieces. And there are times when transparency
14 is and for most of it, transparency is foremost, but for
15 negotiations in something like mediation, transparency is
16 not part of the equation because no one wants to negotiation
17 in public; that's not the way negotiations work well.

18 So I mention all this just to try to respond maybe
19 to some of the tenor of the emails that I received so that
20 people have a sense of what the case -- what's going on and
21 how to understand what's going on because people may not
22 have any context at all, but it is a court-supervised
23 process. We have regular omnibus hearings and people come
24 in to give updates just like those that we've had today.

25 So with that, I'll ask if there's any other party

1 who very briefly wants to be heard on the order, the
2 proposed order requesting an extension of the mediation
3 period.

4 MS. VANLARE: Your Honor, I'm not sure if you're
5 still waiting to hear from others, but I would like an
6 opportunity to quickly respond to some of the points made
7 whenever Your Honor thinks it's appropriate.

8 THE COURT: Oh, yeah, and certainly you'll get
9 that Miss VanLare, absolutely. I figured I would hear from
10 everybody else who might wish to be heard before I'll allow
11 you to clean up, so to speak.

12 MS. VANLARE: Thank you.

13 THE COURT: All right. Any other party that
14 wishes to be heard?

15 MR. ROSEN: Your Honor, Brian Rosen, if you don't
16 mind.

17 THE COURT: Sure.

18 MR. ROSEN: Your Honor, we are representing the ad
19 hoc group. We've actually probably been the longest playing
20 party in this situation, having started the negotiation
21 process well before the committee actually was formed before
22 the Debtors' cases were filed and probably doing it
23 alongside Gemini for the longest period of time.

24 Your Honor, we think the intrusion of the other
25 parties into the mediation process will not add to this

1 process at this time. We are only discussing the DCG
2 matters. We are not discussing the plan formulation with
3 respect to recoveries for people who have a contingent on
4 liquidated claims like FTX or potentially like Three Arrows.
5 And so, we would concur and echo what has been said
6 previously by Miss VanLare and Mr. Abelson with respect to
7 limiting this process at this point in time to the parties
8 that have engaged in it to date.

9 Thank you, Your Honor.

10 THE COURT: All right. Thank you very much. Any
11 other party that wishes to be heard before I hear from Miss
12 VanLare?

13 MR. MUELLER: Your Honor?

14 THE COURT: Yes.

15 MR. MUELLER: Hi, this is Clinton Mueller. I'm
16 actually one of the people who submitted one of those emails
17 to you. And first off, I wanted to thank you for actually
18 taking the time to read those emails from a lot of us.

19 The reason why you're seeing so many Gemini Earn
20 users here and in submitting this is actually because of the
21 fact that we acknowledge the fact that Gemini has claimed
22 that they obviously are representing us, the Earn victims,
23 here in this case. But quite frankly, they have done an
24 inadequate job of actually communicating with many of us,
25 which is why all of us are here and speaking up, hoping that

1 maybe our voices will help draw some light here and perhaps
2 inspire them to improve their communications with us. As
3 they already said, there's over 232,000 of us and we haven't
4 received a single dollar from Gemini since November of last
5 year, not one.

6 Now, the thing about it is from Gemini, you know,
7 we're asking basically for all the parties to please provide
8 greater transparency here. We're not institutional
9 investors, we don't have the luxury of this litigating
10 endlessly. This has real-world implications to our homes
11 and our families.

12 And lastly, if possible, we'd like to ask Gemini
13 while we're here and on record, to please look at the
14 possibility of adding liability to CoinDesk, to Grayscale,
15 or even looking at claw back provisions to that, and then
16 please explore the relationship between the HQ cash
17 management group.

18 Thank you very much for your time.

19 THE COURT: All right, thank you. Well, one thing
20 I will say, a mediation is often done in large Chapter 11
21 cases and there's a reason for that: it's because when you
22 talk about endless litigation, that's what is often the
23 alternative. Endless litigation is incredibly time-
24 consuming and, even more importantly, it's incredibly
25 expensive.

1 And so, in a bankruptcy case -- I will say I've
2 been on the bench for 13 years, presided over cases like
3 American Airlines, Aeropostale, and others -- and if parties
4 in large 11 cases litigated every issue that needed to be
5 decided, instead of talking to each other, none of those
6 cases would have worked: it's just too time-consuming and
7 too expensive, and I have certainly seen mediation work
8 incredibly well in cases.

9 So I think everybody here shares your concern
10 about the potential for endless litigation. I do think that
11 in terms of transparency, that's very important, there's a
12 committee here, there are lots of constituents. I suspect
13 that there will be some discussion among the various folks
14 who are at today's hearing about the best ways to
15 communicate with Gemini lenders who filed these letters for
16 today and other folks who are in the boat about the best way
17 to sort of keep them up to date on developments.

18 But there will be, for things like mediation, a
19 certain amount of radio silence because mediation needs that
20 kind of process for it to work; it's not sinister. It
21 allows people to be very candid about their views, and
22 without that candor, people don't reach agreements. So it
23 can certainly be very frustrating, however, to be on the
24 outside and waiting to hear, so I think everybody
25 appreciates that concern.

1 I guess to loop back to where you started is
2 nobody's seeing a dime. That's really kind of the
3 bankruptcy code's fault. It works that way because people
4 get paid as creditors and interested parties, based on the
5 priority scheme in the bankruptcy code and the terms of a
6 plan. And there are some exceptions to that, but largely,
7 that's how it works, and so it does mean that you have to
8 reach a conclusion on a plan before folks can get paid,
9 which I understand is frustrating. I understand that these
10 are investments by people who don't have the luxury of
11 waiting forever.

12 But I think people are trying to figure out the
13 appropriate resolution thinking about the bankruptcy code,
14 thinking about everybody's individual interests, but it's a
15 multiparty dispute; it's very different than a plaintiff
16 versus defendant litigation. There are many, many parties
17 at the table. I have mediated some large Chapter 11 cases,
18 and I can tell you the mediations are very challenging. But
19 I do appreciate the letters. I actually have your email of
20 June 1st in front of me, sir. And so, again, I will
21 everything that's submitted and, again, I think everybody
22 takes very seriously the concerns that folks have.

23 We have a challenging situation. Nobody comes
24 into bankruptcy court with a rosy story, right? You come in
25 with bad news that tells people, well, we're here in

1 bankruptcy court because we need the tools of the bankruptcy
2 code to deal with the issues and the problems that we have
3 as an ongoing business. And if anybody's paying attention
4 to this space, there are lots of cryptocurrency cases and
5 none of them have been resolved quickly. You can take a
6 look at Judge Glenn who has presided over a number of cases,
7 Judge Wiles in our court has presided over Voyager, there's
8 the FTX case that's in Delaware, so there are a lot of
9 cases. They all have their own individual challenges and
10 that leads to the need to take some time to figure them out.

11 But with that, let me ask if there's anybody else
12 who wishes to be heard before I hear from Miss VanLare. All
13 right. Hearing no further party, Miss VanLare, let me hear
14 from you in reply to the comments.

15 MS. VANLARE: Thank you, Your Honor. I'd just
16 like to briefly address some of the comments made by the FTX
17 debtors and the Three -- counsel to the FTX debtors and
18 counsel to the Three Arrows Capital liquidators.

19 First on the FTX debtors, Mr. Glueckstein noted
20 that they are our largest creditor. We obviously do not
21 believe that that is the case and I think we've made that
22 quite clear in our motion to estimate their claim at zero
23 dollars.

24 I go with what Mr. Rosen has said. We do not
25 believe it's appropriate or helpful to force the admission

1 of these parties into the current mediation process for the
2 reasons that I outlined earlier, and we do think that it's
3 within our business judgment to structure the mediation to
4 facilitate the resolution of these cases in the best way
5 possible and I believe that we've done that. I do not think
6 that it would be helpful, again, to force us to change the
7 way that the mediation has been conducted.

8 So with that, Your Honor, we would ask again that
9 you overrule these objections and enter the order extending
10 the mediation.

11 THE COURT: All right. Having heard from all the
12 parties at this point and thought about the matter after
13 reviewing all the papers before coming out here, I'm going
14 to grant the extension of time to mediate for much the same
15 reasons that we've been discussing. Everybody wants the
16 case to move quickly and to emerge quickly. Mediation has
17 been proven to be a tool that helps further that goal,
18 rather than stand in the way of that goal.

19 If you litigate everything that needs to be
20 litigated and if litigation is your first and only impulse
21 in a large Chapter 11 case, you're rarely going to have a
22 successful case. And so, shortening the mediation does not
23 shorten the case; furthering the mediation tends to further
24 prompt resolution of the case.

25 So a couple of other comments that I'd have in

1 reaching this conclusion to grant the requested extension.
2 There is certainly about who's at the table and who's not;
3 that's, again, a common concern and a common challenge in
4 cases about who's at the table for mediation. You need to
5 start somewhere, and what I have suggested is in cases where
6 that becomes a sticking point is for the parties who are
7 actively involved in mediation to keep the mediator apprised
8 of court proceedings and the kinds of things that they're
9 hearing in court, such as today's hearing. And that way, if
10 the mediator thinks or wants to be a strong advocate for
11 saying, well, somebody's not here who needs to be here to
12 move this along, well, the mediator can communicate that.

13 But I'm not in the business of dictating the terms
14 of the mediation to parties. I think that runs the risk of
15 the procedure not working well and also of a judge who is
16 not as close to the negotiations trying to impose of my
17 sense of what's happening on the parties who actually are
18 close to the negotiations and do know what's happening, so I
19 think that runs a real risk for the process.

20 In terms of speed, that's the other sort of theme
21 of a lot of these things. I don't think there's anything
22 about this case that signals to me that there's been undue
23 delay in any shape or form. Cases often zig and zag back
24 and forth, as we came in an agreement and then things
25 changed, and that sometimes happens as people start

1 negotiating and the bankruptcy process kicks in.

2 I don't think the timing here is inconsistent with
3 Chapter 11 cases generally or with any of the kind of
4 cryptocurrency cases that I've been seeing here in this
5 court and other courts, so I don't think there's been any
6 misuse of the mediation process as a way to unduly delay
7 things. And I think the other protection involved, and that
8 is certainly you have -- the Debtors are negotiating with
9 other parties. They're negotiating with the committee of
10 unsecured creditors who's appointed by statute, with the ad
11 hoc group that involves lots of interested parties.

12 They all have an interest that's very much aligned
13 in the interests of the need for speed that other parties
14 have expressed and the desire to get paid, so I think there
15 are some guardrails around the process by virtue of the
16 participants.

17 And so, turning specifically to the letters,
18 again, the issue of good faith was raised. I haven't seen
19 anything that raises any concerns about good faith use of
20 the process at this point in time in any way, shape, or
21 form.

22 And again, to tie this back to the motion for
23 extension of exclusivity, the reason why you ask for an
24 extension of exclusivity is because the code gives you a
25 certain amount of time, but it also provides for additional

1 time to come back to the court; it's court-supervised
2 process. So I think that that's exactly how it's working
3 here; it's working the way it's supposed to.

4 So one of these emails, I believe, said that or
5 talked about multiple extensions. There haven't been
6 multiple extensions. Today was the first request for an
7 extension of exclusivity. It was also the first request to
8 extend the time for mediation.

9 And one of the concerns that was raised about
10 access to funds, sadly, I wish I had better news for folks.
11 I do have bad news to deliver. Oftentimes in bankruptcy
12 cases as a bankruptcy judge, I can't do anything about folks
13 right now in terms of their desire to access funds; that's
14 bad news. It's unfortunate, but again, that's because of
15 the need to treat equally situated people the same way. So
16 we can't -- if we start paying one party, somebody else
17 doesn't get paid, before we've even figured out who's
18 entitled to what kind of treatment, so that's what the plan
19 of reorganization is for.

20 So again, I sympathize with the frustration and
21 the concerns of all the folks who are submitting emails, as
22 well as the members of the unsecured creditors' committee
23 and the ad hoc group on that score. We will all do the best
24 we can to move the case along efficiently and I do think
25 mediation is a big part of that.

1 So for all those reasons, I'll grant the requested
2 extension of the mediation process, and I will ask the
3 parties to think about the best ways to communicate status
4 generally to the folks who are most interested in this case.
5 If there's something that can be done in the bankruptcy
6 court using the bankruptcy court process that would be
7 helpful, you'll be sure to let me know.

8 If there are -- there were requests to submit some
9 sort of reports or if you're going to handle that directly,
10 that is the folks who are reaching out, certainly as the
11 discussion earlier about the amount of inquiries that Gemini
12 Trust Company is getting. And so, I will leave it all to
13 you all in the first instance to think about those issues,
14 but if there's ever anything I can do on that front, that
15 the institution of the bankruptcy court can do, you'll let
16 me know. I'd be happy to assist in any way I can.

17 So that's the ruling on that motion, that's number
18 four on the agenda. Again, I thank everybody who submitted
19 documents and their views in connection with all of that
20 and, again, I will continue to read everything that is filed
21 in the case.

22 So what's left, I believe, is no. 5, which is the
23 status conference on estimation of reserve requests by
24 letter to have a status conference on the Debtors' motion
25 for estimation. And I realize that came in late; I'm not

1 trying to surprise anybody. My general view is that status
2 conferences can be helpful, and so that's the spirit in
3 which I agreed to add that to the agenda. I'm not trying to
4 put anybody in an awkward spot, but if we can have a
5 conversation and get something useful done, great; sometimes
6 that happens, sometimes it doesn't.

7 So I'm not making any value judgments, I guess is
8 what I'm trying to say, in setting this down for a status
9 conference; just trying to be a vehicle for perhaps a useful
10 conversation. So with that, I think I did get a sense in
11 FTX's earlier remarks and the paper that they filed about
12 some of their concerns about estimation.

13 But maybe Mr. Glueckstein, I'll give you a brief
14 opportunity to expand upon that, recognizing that today is
15 not a status conference, no one is arguing the merits of any
16 of these things; that's on for later this month. So the
17 question is what can we hope to accomplish, so that usually
18 means focusing on procedures and what's an efficient way to
19 handle things, so with that, Mr. Glueckstein.

20 MR. GLUECKSTEIN: Thank you, Your Honor. Again
21 for the record, Brian Glueckstein, Sullivan & Cromwell, for
22 the FTX debtors, and appreciate very much Your Honor
23 scheduling this status conference today.

24 I will be brief, but I would like to expand a bit
25 on our submission to the court and the reason for the

1 request today. We did think it made sense, consistent with
2 Your Honor's comments, to get the parties together to
3 discuss the status of this motion, given the timing in which
4 it's been noticed, and we would like to avoid filing
5 unnecessary motion practice.

6 As we did explain in our letter, the debtors have
7 sought -- the FTX debtors -- to transparently address in
8 good faith their substantial preference claims against the
9 Genesis debtors. We understand those claims are disputed,
10 but, Your Honor, these are very important claims to the FTX
11 estates. Understanding that there are always issues that
12 arise when both parties are debtors in pending Chapter 11
13 cases and there are complexities to that dynamic, we have
14 sought to address our claims in an organized and efficient
15 manner. We did preview our claims to Genesis's counsel. We
16 suggested being open to mediation of the substance of those
17 claims.

18 We filed the motion, as Your Honor knows, seeking
19 relief from the automatic stay to assert those claims in our
20 Chapter 11 cases, which Your Honor has currently scheduled
21 to hear next week on June 15th; that motion was originally
22 noticed and scheduled for hearing last month on May 25th.
23 And when the Genesis debtors' counsel came to us and
24 requested that we adjourn the hearing to permit them to
25 focus on plan mediation, we immediately agreed.

1 In return, the Genesis debtors filed the
2 estimation motion and it's before the filing deadline,
3 providing us the absolute minimum notice of that motion with
4 zero advanced notice or discussion and then noticed it for
5 the same June 15th hearing. We have, as Your Honor alluded
6 to, concerns about that motion. We would be objecting to
7 that motion and certainly as currently presented.

8 From our perspective, it does not seek procedures
9 at all. There's no discussion about the scope of any
10 estimation proceeding, the issues to be considered, the
11 scope of discovery to be conducted, or anything else for
12 that matter. It contains only a proposed truncated schedule
13 to estimate claims by mid-August that are the subject of our
14 stay relief motion and that we've submitted in proofs of
15 claim that have not been objected to.

16 And, Your Honor, the stated purpose of that
17 motion, which of course Your Honor will hear in due course,
18 is to avoid undue delay in the plan process. And it's for
19 that reason, Your Honor, we do think this is the example of
20 putting the cart before the horse in scheduling this motion
21 for next week. From our perspective, Your Honor, the first
22 thing that should happen is the Court should consider the
23 FTX debtors' stay relief motion as scheduled; that motion
24 has been pending, it's been noticed, it was adjourned and is
25 now scheduled for hearing on June 15th. The outcome of that

1 motion will guide the parties as to next step with respect
2 to liquidating the FTX debtors' substantial claims.

3 If the Court were to grant that motion, we
4 certainly are prepared to discuss an expedited litigation
5 schedule on the merits of those claims with respect to that
6 litigation with the Genesis debtors. But that motion, in
7 our view, is a gating issue, which is why we filed it.

8 Second, Your Honor, and fundamentally, we believe
9 that the Genesis debtors should have a plan on file with
10 sufficient time for the FTX debtors and all of their
11 stakeholders to consider it before we have to respond to the
12 estimation procedures motion. The plan at this point
13 remains undisclosed and, as we heard this afternoon in
14 connection with the discussion around extension of
15 mediation, clearly is still being negotiated and formed.
16 And so, from our perspective, the idea that we need to rush
17 mediation procedures on an extremely truncated timeline
18 before we've even seen the plan isn't appropriate.

19 And third, Your Honor, the estimation procedures
20 motion itself raises numeral procedural issues, substantive
21 issues, that we're concerned about, and we think we should
22 be given a reasonable opportunity to respond to the motion,
23 certainly longer than this Thursday given the issues
24 presented. As I noted, there's nothing in the motion itself
25 with respect to the actual procedures that are being sought

1 or proposed. And, of course, the basis of any estimation
2 motion is satisfaction of Section 502(c) of the Bankruptcy
3 Code. The Debtors assert that that provision is satisfied,
4 but there's nothing in the motion that actually presented
5 how so or any evidence in support of the motion.

6 So from our perspective, Your Honor, we believe
7 discovery is necessary before the procedures motion could be
8 heard to understand exactly why it is we're seeking to
9 estimate claims that are the subject of claims that have
10 been filed but not objected to in these cases and subject to
11 our stay relief motion that we have been very clear from the
12 beginning we'd be asking Your Honor to bring in Delaware.

13 So, Your Honor, the reason for -- for all of those
14 reasons from our perspective, we believe that what should
15 happen here, as Your Honor alluded to after my earlier
16 remarks with respect to the mediation, is that the Genesis
17 debtors should talk to us. We should get an understanding
18 of what it is they're trying to accomplish and on what
19 schedule. But we think all of that should happen at least
20 in parallel, but certainly ultimately, any decisions made
21 after consideration of our stay relief motion next week and
22 after we've seen the plan. We've now heard that the current
23 mediation is not including plan treatment issues, the way it
24 suggested to us as this motion was contemplating, which
25 raises more questions in my mind as to why we're proposing a

1 schedule to estimate very significant claims with an unknown
2 scope and process by August.

3 So, Your Honor, before we respond to all of this
4 in writing, we thought it made sense to get together and
5 have the parties perhaps elaborate and get some guidance
6 from Your Honor as to whether this motion is, in fact, going
7 to be heard on the 15th, in which case, we'll need to talk
8 to our stakeholders on our side. We think it's, frankly,
9 just premature at this point in the discussion.

10 Thank you, Your Honor.

11 THE COURT: All right. Thank you very much. So
12 I'll start with Miss VanLare. Again, I don't have a motion
13 in front of me, and so one of the hazards of putting
14 something on for a status conference quickly is to just end
15 up having people sharpen the points on their weapons and I'm
16 not trying to do that. So my focus is really on procedural
17 questions and timing and efficiencies, rather than obviously
18 the merits, which I'm going to stay away from both in terms
19 of the stay relief motion and in terms of the motion to
20 estimate.

21 So Miss VanLare?

22 MS. VANLARE: Thank you, Your Honor. I'd like to
23 address some of the points made by Mr. Glueckstein. So
24 first, we filed our motion to estimate on 14-days' notice,
25 so we did not seek to shorten notice; it's the full notice

1 provided by the rules.

2 I think it's important to remember what's on for
3 hearing on June 15th with respect to this motion is really
4 procedural in nature. It's a request to estimate these
5 claims and to set a process for doing so, and we've laid out
6 what we think is a necessary timeline for that. And the
7 reason for that timeline is we've said in the motion and
8 alluded to today, is that we are trying to implement a
9 confirmation timeline that would allow us to confirm a plan
10 by the end of August.

11 Mr. Glueckstein has said, you know, nobody's seen
12 a plan; that's simply not the case. We've had a plan on
13 file in these cases since the middle of January. We are
14 also, as I noted earlier, intending to file an amended plan
15 and disclosure statement; however, we've had a plan on file
16 for months.

17 The mediation, which has been ongoing, is a way to
18 improve, so to speak, on the plan in the sense that we have
19 hoped and are continuing to hope that we can reach a
20 consensual resolution. However, the plan on file allows us
21 to confirm it and to emerge from these cases, which as Your
22 Honor has heard and read from the various letters that have
23 been filed, it's critically important to us and our
24 creditors. The process that we've proposed for the
25 estimation and the timeline is driven entirely by the

1 confirmation timeline, and again, we hope to achieve that by
2 the end of the summer.

3 Mr. Glueckstein has said in his letter and just a
4 few minutes ago that he thinks we should -- that Your Honor
5 should hear the lift stay motion before hearing the
6 estimation motion. In fact, Your Honor, we think it's
7 critically important that you consider them at the same
8 time, which is why we thought it was important to bring the
9 estimation motion for the same hearing date as the stay
10 relief motion.

11 We think that it's important to consider the full
12 context -- when you consider the stay relief to consider the
13 full context of the timeline for confirmation that we're
14 hoping to achieve in these cases, and we think that's
15 directly relevant, which is why, again, we've sought to have
16 those considered at the same hearing.

17 We do think that the issues on for that hearing
18 are limited; they're procedural in nature. We don't think
19 discovery is necessary. We're simply asking to set a
20 process and a timeline for estimating these claims because
21 the amounts alleged with -- which, again, we disagree fully,
22 the amounts alleged are extremely large. And so, we think
23 this is critical in order to implement our confirmation
24 timeline.

25 So with that, Your Honor, I think really the only

1 issue for today is the question of adjournment. We think
2 it's absolutely critical that the motion proceed on June
3 15th; that is, that it's not adjourned for all the reasons
4 that I articulated. We think it's important to these cases,
5 it's important to our creditors. Thank you.

6 THE COURT: All right. So, Mr. Abelson, on behalf
7 of the committee?

8 MR. ABELSON: Thank you, Your Honor. Again, Phil
9 Abelson, White & Case.

10 The committee echo everything that Miss VanLare
11 just said, but I think she was being a little understated
12 when she said it's an extremely large claim. FTX filed a
13 claim that doubles the size of our claims pool. It is
14 exactly where we anticipated or right around where we
15 anticipated the claims would be and their claim creates what
16 we have as a two times claims pool.

17 And so, it is absolutely essential and critical to
18 these cases that that claim is resolved before we get to
19 plan confirmation and are able to figure out what
20 distributions might be had for all of the creditors, some of
21 whom you've heard from today, you know, before we can get
22 distributions out to them. That's it, Your Honor.

23 THE COURT: All right. Mr. Rosen, on behalf of
24 the ad hocs?

25 MR. ROSEN: Thank you very much, Your Honor. I

1 actually have nothing more to add than what Miss VanLare and
2 Mr. Abelson, other than the fact that in order for these
3 cases to move at the speed that all the creditors need them
4 to move to get distributions in the third quarter of this
5 year, we need to move this process forward and the
6 estimation is the best way to do so. Thank you, Your Honor.

7 THE COURT: All right, so just a couple of
8 thoughts. My thoughts are really procedural more than
9 anything else. What's teed up for the hearing is teed up.
10 I'm not going to micromanage that, but I'm going to do what
11 judges often do, which is to encourage and indeed direct
12 people to talk to one another.

13 And so, there's two things here that I think are
14 process points that loom over things, one is the
15 confirmation timeline. We all know how important it is to
16 move cases, but we also know based on prior experience how
17 quickly cases must move versus how quickly they do move and
18 when negotiations need to happen and things of that sort.
19 It's probably, frankly, too soon to get into that. But I
20 don't want the confirmation timetable to prevent people from
21 talking to people, other people, about the process and
22 procedure.

23 So estimation, the devil's in the details, right?
24 It's in the code, but anybody who's been representing a
25 party who's had an estimation motion filed, the first

1 reaction I think is one of panic and concern because you
2 don't know what it's going to mean for your claim, and the
3 other source of panic and concern is that you don't know
4 what the judge is going to do.

5 The code is not particularly detailed about what
6 an estimation hearing looks like and it really has to suit
7 the facts and circumstances of a case. And so, there's
8 always due process.

9 I'm not sure who, somebody has an open mic, so
10 please make sure to address that if you would.

11 So you need to think practically about it because
12 judges want things to be fair. It's in the code, so it's
13 not a question of whether it's available. It is available
14 and the grounds under which it's available are well known;
15 that part actually, the law is well developed. But what an
16 actual estimation process looks like is a lot less well
17 developed, and so people should have conversations about
18 that and to the extent it's possible, share their thinking
19 about sort of the -- whether you want to use the Jenga
20 blocks metaphor or a Tetris metaphor, which parts of the
21 process are going first and have to go forward before next
22 things happen and where they fit in that process.

23 And so, what I would hope is some of these
24 conversations can happen before the hearing on the 15th.
25 I'll hear everybody out on the 15th on the merits, but the

1 status conference can be useful in starting some discussions
2 now that otherwise might not take place until a little bit
3 closer to the 15th, if at all. I know you all are very busy
4 people, there's a lot of things going on here. But
5 certainly a discussion about process, procedure, and timing
6 is something that -- we're going to get there, right, so the
7 conversation on the 15th is so what do you propose, what do
8 you think should happen, and so, you all should share those
9 views with each other in a practical way ahead of time
10 because we're going to have those discussions anyway.

11 So that's what I would ask you all to do and that
12 would be my takeaway from the discussions is that I don't
13 expect you all to agree; this is not the kind of discussion
14 where that's going to happen necessarily. But sharing your
15 views to narrow the scope of disputes, or at least the range
16 of disagreements, a bit is always useful and it, frankly,
17 comes much better from you than it does from me. You have
18 better information and are closer to the problem, so that's
19 my takeaway.

20 I can't offer, Mr. Glueckstein, anything much more
21 than that today, but it does help to give me context in
22 which to read the papers, both your comments and Ms. VanLare
23 and Mr. Abelson and Mr. Rosen's comments in terms of
24 understanding where the parties are coming from, so it's
25 helpful for me to get that overview and reading everything

1 that's on for the 15th.

2 So I'd leave it there unless anybody has something
3 else that they think can be productively discussed or
4 anything else where I can be of actual tangible assistance
5 for purposes of today. All right.

6 So what I would say is if things develop in terms
7 of what you think the process looks like, just keep chambers
8 in the loop as you have done throughout the case, which is
9 much appreciated. And, if not, I'll see you on the 15th.

10 MR. ZIPES: Your Honor?

11 THE COURT: Yeah.

12 MR. ZIPES: It's Greg Zipes with the U.S.
13 Trustee's Office. I was waiting until the end of the
14 proceeding by way of status to bring up one point here. I
15 know this Court has already ruled on the redaction issues.
16 I'm not aware of any opinion yet, and I assume that's coming
17 soon, and I'm not in any way seeking to reargue any points.
18 But I will note that there were 30 objections filed by
19 individuals here and the Debtor did file a response and it
20 didn't really address concerns relating to disclosures of
21 these names. These people --

22 THE COURT: That's a very appropriate thing to
23 point out, Mr. Zipes. I appreciate that. I would ask that
24 folks think about that.

25 So right now, the status quo is the protections

1 that were granted, the U.S. Trustee's Office filed something
2 saying we think, Judge, you should change this. And, again,
3 as is often the case with sealing, they're granted so to
4 prophylactically because you can't un-ring that bill, and we
5 will continue to act in accordance with that until we get
6 the opinion out and so, I'm glad you identified that.
7 Frankly, I did not think of that, and I don't know how I
8 didn't think of that in hindsight, but I'm glad somebody
9 did.

10 So I would ask the folks who were involved in the
11 sealing motions -- that is the Debtor and the committee, and
12 I think the ad hoc group as well -- to address those kinds
13 of issues. Now there is a certain point where someone may
14 be entitled to certain protections in terms of
15 confidentiality and they agreed to sort of waive those
16 protections, I'm not going to consider these emails as sort
17 of a substantive waive where somebody is telling me that.

18 So I'd like to essentially deal with it so that we
19 preserve the status quo until I get the opinion out, which
20 is something we're working on in chambers, but thank you,
21 Mr. Zipes, for mentioning that. I do appreciate the extra
22 set of eyes on that particular issue.

23 All right. And if there's something that anybody
24 needs me to do or the clerk's office, more appropriately,
25 you can let me know however you think is the most efficient

1 way to do it. That could take a number of forms: it could
2 take the form of a letter; it could take the form of a
3 proposed order to provide for the handling of certain
4 documents and redaction of certain information. Just again,
5 continue to do what you've been doing, which is to talk to
6 each other about the issue.

7 If for some reason it's helpful to have a quick
8 chat about it, just let chambers know. I'm happy to do that
9 if that's efficient because I realize that I'm in a better
10 position to let you know how the clerk's office works on
11 these things than you are. But orders are always helpful
12 because they provide clarity to the clerk's office as to
13 exactly what should happen with what documents and things of
14 that sort, so just to put a little more of a fine point on
15 it, so thank you, Mr. Zipes.

16 And with that, anything else from any other party
17 here I'd say this morning, but it's now hopelessly this
18 afternoon. Anything from any party? All right.

19 Thank you very much for everybody's participation
20 today and assistance on teeing up all these issues. I
21 believe the next time we get together is the 15th. If
22 anything changes between now and then, I'll let chambers
23 now. And otherwise, have yourself a good day.

24 (Whereupon these proceedings were concluded at
25 2:00 PM)

I N D E X

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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